



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Mr. David M. Berman
Nichols, Jackson, Dillard, Hager
& Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR95-887

Dear Mr. Berman:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 34677.

The City of Richardson received a request for information concerning a closed arson investigation. You state that you have released the bulk of the requested information. You contend, however, that the documents you submitted for our review are excepted from required public disclosure under sections 552.101 and 552.108 of the Government Code.

After a file has been closed, either by prosecution or by administrative decision, section 552.108 excepts information from disclosure when the release of the records would unduly interfere with the prevention of crime and the enforcement of the law. Open Records Decision No. 553 (1990) at 4 (and cases cited therein). A governmental body claiming the "law enforcement" exception must reasonably explain how and why release of the requested information would unduly interfere with law enforcement and crime prevention. Open Records Decision No. 434 (1986) at 2-3. You do not explain how the release of the submitted information would unduly interfere with law enforcement and crime prevention. You may not withhold the records under section 552.108 of the Government Code.

The informer's privilege protects the identity of persons who report violations of the law to officials having the duty of enforcing particular laws. *See* Open Records Decision No. 549 (1990) at 4-5. The privilege excepts the informer's statement itself only to the extent necessary to protect the informer's identity. Open Records Decision No. 549 (1990) at 5. However, once the identity of the informer is known to the subject of the communication, the exception is no longer applicable. Open Records Decision No. 202 (1978) at 2. The documents you have submitted indicate that the informer's identity is known to the subject of the communication. Accordingly, you may not withhold this information under section 552.101. The information must be released in its entirety.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/LBC/rho

Ref: ID# 34677

Enclosures: Submitted documents

cc: Ms. Jo Allison Stasney
Cozen and O'Connor
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(w/o enclosures)